

Introduced by Senator Kopp

February 28, 1997

An act to amend Sections 654.3 and 707 of, and to add Article 20.5 (commencing with Section 790) to Chapter 1 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to youths.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as introduced, Kopp. Juvenile court proceedings.

Existing law makes a minor who is under 18 years of age when he or she violates any law defining a crime subject to the jurisdiction of the juvenile court. The juvenile court is required to conduct a hearing to determine the proper disposition of the minor committing a criminal offense and may adjudge the minor a ward of the court. Existing law provides for a hearing to determine if a minor is a fit and proper subject to be dealt with under the juvenile court law.

This bill would require a fitness hearing to be held when a minor is alleged to have committed a felony offense and the minor has twice been found to have committed a felony offense. The bill would provide that such a minor would be presumed to be unfit to be dealt with under the juvenile court law.

The bill would establish a deferred entry of judgement procedure in juvenile court for a minor who has committed a felony offense if specified circumstances apply.

Because the bill would impose additional duties on the criminal justice system equivalent to the additional duties



imposed by the creation of a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act may be cited as the Juvenile
2 Accountability Act of 1997.

3 SEC. 2. Since juvenile offenders who escape
4 accountability for their criminal conduct are likely to be
5 recidivists, the juvenile court system needs to ensure that
6 first-time juvenile offenders committing a felony offense
7 receive more focused scrutiny and guidance sufficient to
8 delineate clearly the path leading towards rehabilitation
9 and the path leading away from incarceration.

10 The Legislature therefore intends to create a deferred
11 entry of judgment procedure in juvenile court for a
12 juvenile charged with a first-time nonviolent, nonserious
13 offense with the hope that the path traveled by these
14 juveniles will lead to rehabilitation.

15 SEC. 3. Section 654.3 of the Welfare and Institutions
16 Code is amended to read:

17 654.3. No minor shall be eligible for the program of
18 supervision set forth in Section 654 or 654.2 in the
19 following cases, except in an unusual case where the
20 interests of justice would best be served and the court
21 specifies on the record the reasons for its decision:

22 (a) A petition alleges that the minor has violated an
23 offense listed in subdivision (b) or (e) or paragraph (2)
24 of subdivision (d) of Section 707.

25 (b) A petition alleges that the minor has sold or
26 possessed for sale a controlled substance as defined in



1 Chapter 2 (commencing with Section 11053) of Division
2 10 of the Health and Safety Code.

3 (c) A petition alleges that the minor has violated
4 Section 11350 or 11377 of the Health and Safety Code
5 where the violation takes place at a public or private
6 elementary, vocational, junior high school, or high school,
7 or a violation of Section 245.5, 626.9, or 626.10 of the Penal
8 Code.

9 (d) A petition alleges that the minor has violated
10 Section 186.22 of the Penal Code.

11 (e) The minor has previously participated in a
12 program of supervision pursuant to Section 654.

13 (f) The minor has previously been adjudged a ward of
14 the court pursuant to Section 602.

15 (g) A petition alleges that the minor has violated an
16 offense in which the restitution owed to the victim
17 exceeds one thousand dollars (\$1,000). For purposes of
18 this subdivision, the definition of “victim” in paragraph
19 (1) of subdivision (a) of Section 730.6 and “restitution” in
20 subdivision (h) of Section 730.6 shall apply.

21 *(h) The minor is alleged to have committed a felony*
22 *offense when the minor was at least 14 years of age.*
23 *Except in unusual cases where court determines the*
24 *interest of justice would best be served by a proceeding*
25 *pursuant to Section 654 or 654.2, a petition alleging that*
26 *a minor who is 14 year of age or over, has committed a*
27 *felony offense shall proceed under Article 20.5*
28 *(commencing with Section 790) or Article 17*
29 *(commencing with Section 675).*

30 SEC. 4. Section 707 of the Welfare and Institutions
31 Code is amended to read:

32 707. (a) In any case in which a minor is alleged to be
33 a person described in Section 602 by reason of the
34 violation, when he or she was 16 years of age or older, of
35 any criminal statute or ordinance except those listed in
36 subdivision (b), upon motion of the petitioner made prior
37 to the attachment of jeopardy the court shall cause the
38 probation officer to investigate and submit a report on the
39 behavioral patterns and social history of the minor being
40 considered for a determination of unfitness. Following

1 submission and consideration of the report, and of any
2 other relevant evidence which the petitioner or the
3 minor may wish to submit, the juvenile court may find
4 that the minor is not a fit and proper subject to be dealt
5 with under the juvenile court law if it concludes that the
6 minor would not be amenable to the care, treatment, and
7 training program available through the facilities of the
8 juvenile court, based upon an evaluation of the following
9 criteria:

10 (1) The degree of criminal sophistication exhibited by
11 the minor.

12 (2) Whether the minor can be rehabilitated prior to
13 the expiration of the juvenile court's jurisdiction.

14 (3) The minor's previous delinquent history.

15 (4) Success of previous attempts by the juvenile court
16 to rehabilitate the minor.

17 (5) The circumstances and gravity of the offense
18 alleged in the petition to have been committed by the
19 minor.

20 A determination that the minor is not a fit and proper
21 subject to be dealt with under the juvenile court law may
22 be based on any one or a combination of the factors set
23 forth above, which shall be recited in the order of
24 unfitness. In any case in which a hearing has been noticed
25 pursuant to this section, the court shall postpone the
26 taking of a plea to the petition until the conclusion of the
27 fitness hearing, and no plea which may already have been
28 entered shall constitute evidence at the hearing.

29 (b) Subdivision (c) shall be applicable in any case in
30 which a minor is alleged to be a person described in
31 Section 602 by reason of the violation, when he or she was
32 16 years of age or older, of one of the following offenses:

33 (1) Murder.

34 (2) Arson, as provided in subdivision (a) or (b) of
35 Section 451 of the Penal Code.

36 (3) Robbery while armed with a dangerous or deadly
37 weapon.

38 (4) Rape with force or violence or threat of great
39 bodily harm.

- 1 (5) Sodomy by force, violence, duress, menace, or
2 threat of great bodily harm.
- 3 (6) Lewd or lascivious act as provided in subdivision
4 (b) of Section 288 of the Penal Code.
- 5 (7) Oral copulation by force, violence, duress, menace,
6 or threat of great bodily harm.
- 7 (8) Any offense specified in subdivision (a) of Section
8 289 of the Penal Code.
- 9 (9) Kidnapping for ransom.
- 10 (10) Kidnapping for purpose of robbery.
- 11 (11) Kidnapping with bodily harm.
- 12 (12) Attempted murder.
- 13 (13) Assault with a firearm or destructive device.
- 14 (14) Assault by any means of force likely to produce
15 great bodily injury.
- 16 (15) Discharge of a firearm into an inhabited or
17 occupied building.
- 18 (16) Any offense described in Section 1203.09 of the
19 Penal Code.
- 20 (17) Any offense described in Section 12022.5 of the
21 Penal Code.
- 22 (18) Any felony offense in which the minor personally
23 used a weapon listed in subdivision (a) of Section 12020
24 of the Penal Code.
- 25 (19) Any felony offense described in Section 136.1 or
26 137 of the Penal Code.
- 27 (20) Manufacturing, compounding, or selling one-half
28 ounce or more of any salt or solution of a controlled
29 substance specified in subdivision (e) of Section 11055 of
30 the Health and Safety Code.
- 31 (21) Any violent felony, as defined in subdivision (c)
32 of Section 667.5 of the Penal Code, which would also
33 constitute a felony violation of subdivision (b) of Section
34 186.22 of the Penal Code.
- 35 (22) Escape, by the use of force or violence, from any
36 county juvenile hall, home, ranch, camp, or forestry camp
37 in violation of subdivision (b) of Section 871 where great
38 bodily injury is intentionally inflicted upon an employee
39 of the juvenile facility during the commission of the
40 escape.

1 (23) Torture as described in Sections 206 and 206.1 of
2 the Penal Code.

3 (24) Aggravated mayhem, as described in Section 205
4 of the Penal Code.

5 (25) Carjacking, as described in Section 215 of the
6 Penal Code, while armed with a dangerous or deadly
7 weapon.

8 (26) Kidnapping, as punishable in subdivision (d) of
9 Section 208 of the Penal Code.

10 (27) Kidnapping, as punishable in Section 209.5 of the
11 Penal Code.

12 (28) The offense described in subdivision (c) of
13 Section 12034 of the Penal Code.

14 (29) The offense described in Section 12308 of the
15 Penal Code.

16 (c) With regard to a minor alleged to be a person
17 described in Section 602 by reason of the violation, when
18 he or she was 16 years of age or older, of any of the offenses
19 listed in subdivision (b), upon motion of the petitioner
20 made prior to the attachment of jeopardy the court shall
21 cause the probation officer to investigate and submit a
22 report on the behavioral patterns and social history of the
23 minor being considered for a determination of unfitness.
24 Following submission and consideration of the report,
25 and of any other relevant evidence which the petitioner
26 or the minor may wish to submit the minor shall be
27 presumed to be not a fit and proper subject to be dealt
28 with under the juvenile court law unless the juvenile
29 court concludes, based upon evidence, which evidence
30 may be of extenuating or mitigating circumstances, that
31 the minor would be amenable to the care, treatment, and
32 training program available through the facilities of the
33 juvenile court based upon an evaluation of each of the
34 following criteria:

35 (1) The degree of criminal sophistication exhibited by
36 the minor.

37 (2) Whether the minor can be rehabilitated prior to
38 the expiration of the juvenile court's jurisdiction.

39 (3) The minor's previous delinquent history.

1 (4) Success of previous attempts by the juvenile court
2 to rehabilitate the minor.

3 (5) The circumstances and gravity of the offenses
4 alleged in the petition to have been committed by the
5 minor.

6 A determination that the minor is a fit and proper
7 subject to be dealt with under the juvenile court law shall
8 be based on a finding of amenability after consideration
9 of the criteria set forth above, and findings therefor
10 recited in the order as to each of the above criteria that
11 the minor is fit and proper under each and every one of
12 the above criteria. In making a finding of fitness, the court
13 may consider extenuating or mitigating circumstances in
14 evaluating each of the above criteria. In any case in which
15 a hearing has been noticed pursuant to this section, the
16 court shall postpone the taking of a plea to the petition
17 until the conclusion of the fitness hearing and no plea
18 which may already have been entered shall constitute
19 evidence at the hearing.

20 (d) (1) In any case in which a minor is alleged to be
21 a person described in Section 602 by reason of the
22 violation, when he or she had attained the age of 14 years
23 but had not attained the age of 16 years, of any of the
24 offenses set forth in paragraph (2), upon motion of the
25 petitioner made prior to the attachment of jeopardy the
26 court shall cause the probation officer to investigate and
27 submit a report on the behavioral patterns and social
28 history of the minor being considered for a determination
29 of unfitness. Following submission and consideration of
30 the report, and of any other relevant evidence that the
31 petitioner or the minor may wish to submit, the juvenile
32 court may find that the minor is not a fit and proper
33 subject to be dealt with under the juvenile court law if it
34 concludes that the minor would not be amenable to the
35 care, treatment, and training program available through
36 the facilities of the juvenile court, based upon an
37 evaluation of the following criteria:

38 (A) The degree of criminal sophistication exhibited by
39 the minor.

1 (B) Whether the minor can be rehabilitated prior to
2 the expiration of the juvenile court's jurisdiction.

3 (C) The minor's previous delinquent history.

4 (D) Success of previous attempts by the juvenile court
5 to rehabilitate the minor.

6 (E) The circumstances and gravity of the offense
7 alleged in the petition to have been committed by the
8 minor.

9 A determination that the minor is not a fit and proper
10 subject to be dealt with under the juvenile court law may
11 be based on any one or a combination of the factors set
12 forth above, which shall be recited in the order of
13 unfitness. In any case in which a hearing has been noticed
14 pursuant to this subdivision, the court shall postpone the
15 taking of a plea to the petition until the conclusion of the
16 fitness hearing, and no plea that may already have been
17 entered shall constitute evidence at the hearing.

18 (2) Paragraph (1) shall be applicable in any case in
19 which a minor is alleged to be a person described in
20 Section 602 by reason of the violation, when he or she had
21 attained the age of 14 years but had not attained the age
22 of 16 years, of one of the following offenses:

23 (A) Murder.

24 (B) Robbery in which the minor personally used a
25 firearm.

26 (C) Rape with force or violence or threat of great
27 bodily harm.

28 (D) Sodomy by force, violence, duress, menace, or
29 threat of great bodily harm.

30 (E) Oral copulation by force, violence, duress,
31 menace, or threat of great bodily harm.

32 (F) The offense specified in subdivision (a) of Section
33 289 of the Penal Code.

34 (G) Kidnapping for ransom.

35 (H) Kidnapping for purpose of robbery.

36 (I) Kidnapping with bodily harm.

37 (J) Kidnapping, as punishable in subdivision (d) of
38 Section 208 of the Penal Code.

1 (K) The offense described in subdivision (c) of Section
2 12034 of the Penal Code, in which the minor personally
3 used a firearm.

4 (L) Personally discharging a firearm into an inhabited
5 or occupied building.

6 (M) Manufacturing, compounding, or selling one-half
7 ounce or more of any salt or solution of a controlled
8 substance specified in subdivision (e) of Section 11055 of
9 the Health and Safety Code.

10 (N) Escape, by the use of force or violence, from any
11 county juvenile hall, home, ranch, camp, or forestry camp
12 in violation of subdivision (b) of Section 871 where great
13 bodily injury is intentionally inflicted upon an employee
14 of the juvenile facility during the commission of the
15 escape.

16 (O) Torture, as described in Section 206 of the Penal
17 Code.

18 (P) Aggravated mayhem, as described in Section 205
19 of the Penal Code.

20 (Q) Assault with a firearm in which the minor
21 personally used the firearm.

22 (R) Attempted murder.

23 (S) Rape in which the minor personally used a firearm.

24 (T) Burglary in which the minor personally used a
25 firearm.

26 (U) Kidnapping in which the minor personally used a
27 firearm.

28 (V) The offense described in Section 12308 of the
29 Penal Code.

30 (W) Kidnapping, in violation of Section 209.5 of the
31 Penal Code.

32 (X) Carjacking, in which the minor personally used a
33 firearm.

34 (e) This subdivision shall apply to a minor alleged to be
35 a person described in Section 602 by reason of the
36 violation, when he or she had attained the age of 14 years
37 but had not attained the age of 16 years, of the offense of
38 murder in which it is alleged in the petition that one of
39 the following exists:

1 (1) In the case of murder in the first or second degree,
2 the minor personally killed the victim.

3 (2) In the case of murder in the first or second degree,
4 the minor, acting with the intent to kill the victim, aided,
5 abetted, counseled, commanded, induced, solicited,
6 requested, or assisted any person to kill the victim.

7 (3) In the case of murder in the first degree, while not
8 the actual killer, the minor, acting with reckless
9 indifference to human life and as a major participant in
10 a felony enumerated in paragraph (17) of subdivision (a)
11 of Section 190.2, or an attempt to commit that felony,
12 aided, abetted, counseled, commanded, induced,
13 solicited, requested, or assisted in the commission or
14 attempted commission of that felony and the commission
15 or attempted commission of that felony or the immediate
16 flight therefrom resulted in the death of the victim.

17 Upon motion of the petitioner made prior to the
18 attachment of jeopardy, the court shall cause the
19 probation officer to investigate and submit a report on the
20 behavioral patterns and social history of the minor being
21 considered for a determination of unfitness. Following
22 submission and consideration of the report, and of any
23 other relevant evidence which the petitioner or the
24 minor may wish to submit, the minor shall be presumed
25 to be not a fit and proper subject to be dealt with under
26 the juvenile court law unless the juvenile court concludes,
27 based upon evidence, which evidence may be of
28 extenuating or mitigating circumstances, that the minor
29 would be amenable to the care, treatment, and training
30 program available through the facilities of the juvenile
31 court based upon an evaluation of each of the following
32 criteria:

33 (A) The degree of criminal sophistication exhibited by
34 the minor.

35 (B) Whether the minor can be rehabilitated prior to
36 the expiration of the juvenile court's jurisdiction.

37 (C) The minor's previous delinquent history.

38 (D) Success of previous attempts by the juvenile court
39 to rehabilitate the minor.

1 (E) The circumstances and gravity of the offenses
2 alleged in the petition to have been committed by the
3 minor.

4 A determination that the minor is a fit and proper
5 subject to be dealt with under the juvenile court law shall
6 be based on a finding of amenability after consideration
7 of the criteria set forth above, and findings therefor
8 recited in the order as to each of the above criteria that
9 the minor is fit and proper under each and every one of
10 the above criteria. In making a finding of fitness, the court
11 may consider extenuating or mitigating circumstances in
12 evaluating each of the above criteria. In any case in which
13 a hearing has been noticed pursuant to this section, the
14 court shall postpone the taking of a plea to the petition
15 until the conclusion of the fitness hearing and no plea
16 which may already have been entered shall constitute
17 evidence at the hearing.

18 *(f) (1) This subdivision shall apply to a minor alleged*
19 *to be a person described in Section 602 by reason of the*
20 *violation, when he or she has attained the age of 14 years,*
21 *of any felony offense when the minor has been declared*
22 *to be a ward of the court pursuant to Section 602 on two*
23 *or more prior occasions if both of the following apply:*

24 *(A) At least two of the prior wardship petitions were*
25 *sustained because the minor was found to have*
26 *committed a felony offense.*

27 *(B) The offenses upon which the prior petitions were*
28 *based were committed when the minor had attained the*
29 *age of 14 years.*

30 *(2) Upon motion of the petitioner made prior to the*
31 *attachment of jeopardy, the court shall cause the*
32 *probation officer to investigate and submit a report on the*
33 *behavioral patterns and social history of the minor being*
34 *considered for a determination of unfitness. Following*
35 *submission and consideration of the report, and of any*
36 *other relevant evidence which the petitioner or the*
37 *minor may wish to submit, the minor shall be presumed*
38 *to be not a fit and proper subject to be dealt with under*
39 *the juvenile court law unless the juvenile court concludes,*
40 *based upon evidence, which evidence may be of*

1 *extenuating or mitigating circumstances, that the minor*
2 *would be amendable to the care, treatment, and training*
3 *program available through the facilities of the juvenile*
4 *court based upon an evaluation of each of the following*
5 *criteria:*

6 *(A) The degree of criminal sophistication exhibited by*
7 *the minor.*

8 *(B) Whether the minor can be rehabilitated prior to*
9 *the expiration of the juvenile court's jurisdiction.*

10 *(C) The minor's previous delinquent history.*

11 *(D) Success of previous attempts by the juvenile court*
12 *to rehabilitate the minor.*

13 *(E) The circumstances and gravity of the offenses*
14 *alleged in the petition to have been committed by the*
15 *minor.*

16 *(3) A determination that the minor is a fit and proper*
17 *subject to be dealt with under the juvenile court law shall*
18 *be based on a finding of amenability after consideration*
19 *of the criteria set forth in paragraph (2), and findings*
20 *therefor recited in the order as to each of the above*
21 *criteria that the minor is fit and proper under each and*
22 *every one of the above criteria. In making a finding of*
23 *fitness, the court may consider extenuating or mitigating*
24 *circumstances in evaluating each of the above criteria. In*
25 *any case in which a hearing has been noticed pursuant to*
26 *this section, the court shall postpone the taking of a plea*
27 *to the petition until the conclusion of the fitness hearing*
28 *and no plea that may already have been entered shall*
29 *constitute evidence at the hearing.*

30 SEC. 5. Article 20.5 (commencing with Section 790)
31 is added to Chapter 1 of Part 1 of Division 2 of the Welfare
32 and Institutions Code, to read:

33
34 Article 20.5. Deferred Entry of Judgment
35

36 790. (a) Notwithstanding Sections 654, 654.2, or any
37 other provision of law, this article shall apply whenever
38 a case is before the juvenile court for a determination of
39 whether a minor is a person described in Section 602

1 because of the commission of a felony offense, if all of the
2 following circumstances apply:

3 (1) The minor has not previously been declared to be
4 a ward of the court for the commission of a felony offense.

5 (2) The offense charged is not one of the offenses
6 enumerated in subdivision (b), (d), or (e) of Section 707.

7 (3) The minor has not previously been committed to
8 the custody of the Department of the Youth Authority.

9 (4) The minor's record does not indicate that
10 probation has ever been revoked without being
11 completed.

12 (5) The minor is at least 14 years of age at the time of
13 the hearing.

14 (6) The minor is eligible for probation pursuant to
15 Section 1203.06 of the Penal Code.

16 (b) The prosecuting attorney shall review his or her
17 file to determine whether or not paragraphs (1) to (6),
18 inclusive, of subdivision (a) apply. Upon the agreement
19 of the prosecuting attorney, the public defender or the
20 minor's private defense attorney, and the presiding judge
21 of the juvenile court or a judge designated by the
22 presiding judge to the application of this article, this
23 procedure shall be completed as soon as possible after the
24 initial filing of the petition. If the prosecuting attorney,
25 the defense attorney, and the juvenile court judge do not
26 agree, the case shall proceed according to the Article 17
27 (commencing with Section 675). If the minor is found
28 eligible for deferred entry of judgment, the prosecuting
29 attorney shall file a declaration in writing with the court
30 or state for the record the grounds upon which the
31 determination is based, and shall make this information
32 available to the minor and his or her attorney. Under this
33 procedure, the court may set the hearing for deferred
34 entry of judgment at the initial appearance under Section
35 657.

36 791. (a) The prosecuting attorney's written
37 notification to the minor shall also include all of the
38 following:

39 (1) A full description of the procedures for deferred
40 entry of judgment.

1 (2) A general explanation of the roles and authorities
2 of the probation department, the prosecuting attorney,
3 the program, and the court in that process.

4 (3) A clear statement that, in lieu of jurisdictional and
5 disposition hearings, the court may grant a deferred entry
6 of judgment with respect to any offense charged in the
7 petition, provided that the minor admits each allegation
8 contained in the petition and waives time for the
9 pronouncement of judgment, and that upon the
10 successful completion of the terms of probation, as
11 defined in Section 794, the positive recommendation of
12 the probation department, and the motion of the
13 prosecuting attorney, but no sooner than 12 months and
14 no later than 36 months from the date of the minor's
15 referral to the program, the court shall dismiss the charge
16 or charges against the minor.

17 (4) A clear statement that upon any failure of the
18 minor to comply with the terms of probation, including
19 the rules of any program the minor is directed to attend,
20 or any circumstance specified in Section 793, the
21 prosecuting attorney or the probation department, or the
22 court on its own, may make a motion to the court for entry
23 of judgment and the court shall render a finding that the
24 minor is a ward of the court pursuant to Section 602 for
25 the commission of the offenses specified in the original
26 petition and shall schedule a dispositional hearing.

27 (5) An explanation of record retention and disposition
28 resulting from participation in the deferred entry of
29 judgment program and the minor's rights relative to
30 answering questions about his or her arrest and deferred
31 entry of judgment following successful completion of the
32 program.

33 (6) A statement that if the minor fails to comply with
34 the terms of the program and judgment is entered, the
35 offense may serve as a basis for a finding of unfitness for
36 juvenile court treatment pursuant to subdivision (f) of
37 Section 707, if the minor commits two subsequent felony
38 offenses.

39 (b) If the minor consents and waives his or her right
40 to a speedy jurisdictional hearing, the court may refer the

1 case to the probation department or the court may
 2 summarily grant deferred entry of judgment if the minor
 3 admits the charge or charges in the petition and waives
 4 time for the pronouncement of judgment. When directed
 5 by the court, the probation department shall make an
 6 investigation and take into consideration the defendant's
 7 age, maturity, educational background, family
 8 relationships, demonstrable motivation, treatment
 9 history, if any, and other mitigating factors in
 10 determining whether the minor is a person who would be
 11 benefited by education, treatment, or rehabilitation. The
 12 probation department shall also determine which
 13 programs would accept the minor. The probation
 14 department shall report its findings and
 15 recommendations to the court. The court shall make the
 16 final determination regarding education, treatment, and
 17 rehabilitation for the minor.

18 (c) A minor's admission of the charges contained in
 19 the petition pursuant to this chapter shall not constitute
 20 a finding that a petition has been sustained for any
 21 purpose, unless a judgment is entered pursuant to
 22 subdivision (b) of Section 793.

23 792. The judge shall issue a citation directing any
 24 custodial parent, guardian, or foster parent of the minor
 25 to appear at the time and place set for the hearing, and
 26 directing any person having custody or control of the
 27 minor concerning whom the petition has been filed to
 28 bring the minor with him or her. The notice shall in
 29 addition state that a parent, guardian, or foster parent,
 30 may be required to participate in a counseling or
 31 education program with the minor concerning whom the
 32 petition has been filed. The notice shall explain the
 33 provisions of Section 170.6 of the Code of Civil Procedure.
 34 Personal service of the citation shall be made at least 24
 35 hours before the time stated for the appearance.

36 793. (a) If it appears to the prosecuting attorney, the
 37 court, or the probation department that the minor is not
 38 performing satisfactorily in the assigned program or is not
 39 complying with the terms of the minor's probation, or
 40 that the minor is not benefiting from education,

1 treatment, or rehabilitation, the court shall lift the
2 deferred entry of judgment and schedule a dispositional
3 hearing. If, after accepting deferred entry of judgment
4 and during the period in which deferred entry of
5 judgment was granted, the minor is convicted of, or
6 declared to be a person described in Section 602 for the
7 commission of, any felony offense or of any two
8 misdemeanor offenses committed on separate occasions,
9 the judge shall enter judgment and schedule a
10 dispositional hearing. If the minor is convicted of, or
11 found to be a person described in Section 602, because of
12 the commission of one misdemeanor offense or multiple
13 misdemeanor offenses committed on a single occasion,
14 the court may enter judgment and schedule a
15 dispositional hearing.

16 (b) If the judgment previously deferred is imposed
17 and a dispositional hearing scheduled pursuant to
18 subdivision (a), the juvenile court shall report the
19 complete criminal history of the minor to the
20 Department of Justice. The Department of Justice shall
21 retain this information and make it available in the same
22 manner as information gathered pursuant to Chapter 2
23 (commencing with Section 13100) of Title 3 of the Penal
24 Code.

25 (c) If the minor has performed satisfactorily during
26 the period in which deferred entry of judgment was
27 granted, at the end of that period the charge or charges
28 in the wardship petition shall be dismissed and the arrest
29 upon which the judgment was deferred shall be deemed
30 never to have occurred and any records in the possession
31 of the juvenile court shall be sealed, except that the
32 prosecuting attorney and the probation department shall
33 have access to these records after they are sealed for the
34 purpose of determining whether a minor is eligible for
35 deferred entry of judgment pursuant to Section 790.

36 794. When a minor is permitted to participate in a
37 deferred entry of judgment procedure, the judge shall
38 impose, as a condition of probation, the requirement that
39 the minor be subject to warrantless searches of his or her
40 person, residence, or property under his or her control,



1 upon the request of a probation officer or peace officer.
2 The court shall also consider whether imposing random
3 drug or alcohol testing, or both, including urinalysis,
4 would be an appropriate condition of probation. The
5 judge shall also, when appropriate, require the minor to
6 periodically establish compliance with curfew and school
7 attendance requirements. The court may, in consultation
8 with the probation department, impose any other term
9 of probation authorized by this code that the judge
10 believes would assist in the education, treatment, and
11 rehabilitation of the minor and the prevention of criminal
12 activity. The minor may also be required to pay
13 restitution to the victim or victims pursuant to the
14 provisions of this code.

15 795. The county probation officer or a person
16 designated by the county probation officer shall serve in
17 each county as the program administrator for juveniles
18 granted deferred entry of judgment and shall be
19 responsible for developing, supervising, and monitoring
20 treatment programs and otherwise overseeing the
21 placement and supervision of minors granted probation
22 pursuant to the provisions of this chapter.

23 SEC. 6. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.